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14
UNITED STATES DISTRICT COURT
 15
NORTHERN DISTRICT OF CALIFORNIA

16 NICOLE RIEGER, individually and on behalf of
 17 all others similarly situated,

18 Plaintiff,

19 v.

20 EPIQ SYSTEMS, INC., ANGEION GROUP
 21 LLC, JND LEGAL ADMINISTRATION,
 22 KROLL SETTLEMENT ADMINISTRATION
 23 LLC, HUNTINGTON NATIONAL BANK,
 24 WESTERN ALLIANCE BANK, and DOES 1-
 25 20,

26 Defendants.

27 Case No. 3:25-cv-04793-JSC

28 **MOTION TO ENLARGE TIME TO
 ANSWER, MOVE, OR OTHERWISE
 RESPOND TO COMPLAINT, CONTINUE
 INITIAL CASE MANAGEMENT
 CONFERENCE, AND EXTEND RELATED
 DEADLINES**

The Hon. Jacqueline Scott Corley
 Courtroom 8

MEMORANDUM OF POINTS AND AUTHORITIES

2 Pursuant to Local Rule 6-3, Defendants Epiq Systems, Inc. (“Epiq”), Angeion Group
3 LLC (“Angeion”), JND Legal Administration (“JND”), Kroll Settlement Administration LLC (“Kroll”),
4 The Huntington National Bank (“Huntington”), and Western Alliance Bank (“Western Alliance”)
5 (together, the “Defendants”), through the undersigned counsel, respectfully move to enlarge Defendants’
6 time to answer, move to dismiss, or otherwise respond to the Complaint and related deadlines (the
7 “Motion”), pending the Judicial Panel on Multidistrict Litigation’s (“JPML”) decision on the motion to
8 transfer and centralize certain actions pursuant to 28 U.S.C. § 1407 and Rule 7.2 of the Rules of
9 Procedure of the JPML, including this litigation, into a multidistrict litigation (“MDL”), which was filed
10 by plaintiffs in the *Baker v. Angeion Group, LLC, et al.*, No. 2:23-cv-02079-KBH (E.D. Pa.) action (the
11 “JPML Motion”) on August 13, 2025. There is good cause to grant this Motion. An enlargement of
12 time to respond will not prejudice Plaintiff, whereas a denial would cause hardship and inequity to
13 Defendants, reduce judicial efficiency, and risk inconsistent rulings on issues that should be addressed
14 uniformly in the MDL. This Court has already stayed an identical, earlier-filed case pursuant to the
15 parties’ stipulation that the case be stayed pending resolution of the JPML Motion. *Whalen v. Epiq*
16 *Systems, Inc., et al.*, No. 3:25-cv-04522 (N.D. Cal.) (“*Whalen I*”) [ECF No. 46].

BACKGROUND

18 On June 5, 2025, Plaintiff Nicole Rieger filed the Class Action Complaint (the
19 “Complaint”) against Defendants Epiq, Angeion, JND, Kroll, Huntington, and Western Alliance. (ECF
20 No. 1.) This case was the fifth of five putative class actions currently pending in four different federal
21 courts involving substantially similar allegations, claims, and defendants: (1) *Whalen 1*; (2) *Whalen v.*
22 *Epiq Systems Inc., et al.*, No. 3:25-cv-4499 (S.D.N.Y.) (“*Whalen 2*”); (3) *Tejon v. Epiq Systems, Inc., et*
23 *al.*, No. 1:25-cv-22453 (S.D. Fla.); and (4) *Baker v. Epiq Systems, Inc., et al.*, No. 2:25-cv-02079 (E.D.
24 Pa.) (together with the above-captioned case, the “Related Actions”). Indeed, the Complaint here was
25 lifted almost entirely — right down to the identical photographs of redacted checks both plaintiffs

1 inexplicably pasted into their complaints — from the complaint filed in *Whalen 1*. (3:25-cv-04522-JSC,
 2 N.D. Cal., ECF No. 1.)¹

3 On July 28, 2025, this Court granted Plaintiff and Defendants' Stipulation To Amend
 4 Time To Respond to Complaint (ECF No. 27). Accordingly, Defendants currently have until September
 5 2025 to respond to the Complaint; the deadlines to file an ADR Certification and to complete the Rule
 6 26(f) Meet and Confer are September 3, 2025; the deadlines for Initial Disclosures and for a Joint Case
 7 Management Statement are September 17, 2025; and the Initial Case Management Conference is
 8 scheduled for September 24, 2025 at 2:00 p.m. (*Id.*) Discovery has not yet begun.

9 On August 13, 2025, the *Baker* plaintiffs filed the JPML Motion to transfer the Related
 10 Actions to the District Court for the Eastern District of Pennsylvania or, alternatively, to the District
 11 Court for the Southern District of New York for consolidated or coordinated pretrial proceedings. Since
 12 then, the parties in three of the five Related Actions have stipulated to stays pending resolution of the
 13 JPML Motion, agreeing that a stay is in the interests of justice and judicial economy and this Court
 14 entered the stipulation in *Whalen 1*. (*See Order to Stay or Extend Time to Answer, Move, or Otherwise*
 15 *Respond to Complaint, Continue Initial Case Management Conference, and Extend Related Deadlines*,
 16 3:25-cv-04522-JSC, N.D. Cal., ECF No. 46 (*Whalen 1*) (granting stipulation); *see also Stipulation and*
 17 *Order*, 2:25-cv-02079-KBH, E.D. Pa., ECF No. 56 (*Baker*) (same); *Order Granting In Part Letter*
 18 *Motion to Stay*, 1:25-cv-04499-PKC, S.D.N.Y., ECF No. 58 (*Whalen 2*) (staying deadline to respond to
 19 complaint until a date to be set at an initial conference, which was adjourned from September 2, 2025
 20 until October 16, 2025).)

21 Nonetheless, Plaintiff in this case has refused to agree to a stay. On August 20, 2025,
 22 counsel for the Defendants sent Plaintiff a stipulation to stay the above-captioned case pending
 23 resolution of the JPML Motion, requesting Plaintiff's permission to sign and file on her behalf.
 24 (Declaration of Brendan P. Cullen ("Cullen Decl."), Ex. A.) Six days later, Plaintiff's counsel

25
 26 ¹ On July 7, 2025, Judge Corley granted a Motion for Administrative Relief To Consider Whether Cases
 27 Should be Related filed by plaintiffs in the *Whalen 1* action, finding that this case, as the more recently
 28 filed case, is related to *Whalen 1* and reassigning it to herself. (3:25-cv-04522-JSC, N.D. Cal., ECF
 Nos. 18, 21 (motion and order granting motion); *see also* ECF No. 11 (order granting motion to relate in
 the above-captioned case).)

1 responded: “[W]e’ve considered and we’re not amenable to the stipulation, thanks.” (*Id.*) Because, for
 2 no stated (or obvious) reason, Plaintiff refuses to stipulate to stay this copy-cat case, Defendants hereby
 3 seek to enlarge the time applicable to all proceedings in the above-captioned case pending resolution of
 4 the JPML Motion and contend that the competing interests, including all three *Rivers* factors, weigh in
 5 favor of granting the Motion.

6 **ARGUMENT**

7 This Court has discretion to enlarge Defendants’ time to respond to the Complaint
 8 pending resolution of the JPML Motion. *See Johnson v. Starbucks Corp.*, 2018 WL 3159689, at *1
 9 (N.D. Cal. June 28, 2018) (“The court’s discretionary power to issue a stay is incidental to the power
 10 inherent in every court to control the disposition of the causes on its docket with economy of time and
 11 effort for itself, for counsel, and for litigants.”) (internal quotations omitted). Courts “frequently grant
 12 stays pending a decision by the MDL panel regarding whether to transfer a case.” *Gonzalez v. Ford*
 13 *Motor Co.*, 2017 WL 9614465, at *1 (N.D. Cal. Nov. 16, 2017) (internal quotation omitted); *see also*
 14 *A.H.M. v. Uber Techs., Inc.*, 2023 WL 6199179, at *1, *3 (N.D. Cal. Sept. 22, 2023) (Corley, J.)
 15 (finding that “many district courts grant stays in such cases because of judicial economy”).

16 Local Rule 6-1(b) provides that a “request for a Court order enlarging . . . time may be
 17 made by . . . motion pursuant to Civil L.R. 6-3.” Local Rule 6-3 requires that the moving party identify
 18 (among other things) the “substantial harm or prejudice that would occur if the Court did not change the
 19 time.” Where a JPML decision is pending “[s]ome courts” weigh similar “competing interests” by
 20 “applying the *Rivers* test, which considers the following factors: ‘(1) potential prejudice to the non-
 21 moving party; (2) hardship and inequity to the moving party if the action is not stayed; and (3) the
 22 judicial resources that would be saved by avoiding duplicative litigation if the cases are in fact
 23 consolidated.’” *See A.H.M.*, 2023 WL 6199179, at *2 (quoting *Rivers v. Walt Disney Co.*, 980 F. Supp.
 24 1358, 1360 (C.D. Cal. 1997)). Here, all three *Rivers* factors support granting the Motion.

25 *First*, Plaintiff will not be prejudiced by the requested enlargement of time. The JPML
 26 Motion will be fully briefed by September 12, 2025 and, if the parties do not waive oral argument,
 27 would be heard by the JPML on December 4, 2025. *See* Multidistrict Litig. Manual § 4:27 (2014 ed.)
 28 (“In most cases the Panel decides the matter before it within a short period after arguments are held or

1 after the briefing is completed if the parties waive oral argument.”). There is no reason to believe that
 2 such a brief delay would prejudice Plaintiff. *See Fuller v. Amerigas Propane, Inc.*, 2009 WL 2390358,
 3 at *2 (N.D. Cal. Aug. 3, 2009) (finding “no meaningful prejudice” as a result of a stay where the case
 4 was “in very early procedural stages,” the JPML was “expected to hear th[e] matter within a few
 5 months,” and the stay was “unlikely to cause the degradation of memories or the loss of material
 6 evidence”); *J.W. v. Pfizer, Inc.*, 2013 WL 1402962 (N.D. Cal. Apr. 5, 2013) (“Plaintiffs claim that their
 7 case will ‘languish in federal court,’ and that their jurisdiction question will not be considered for
 8 several months. However, Plaintiffs offer no tangible harm that they would suffer from waiting a term
 9 of months.”) (internal citation omitted). And, “[i]n fact, a stay might help Plaintiff[] avoid unnecessary
 10 effort and expense.” *Ernyes-Kofler v. Sanofi S.A.*, 2017 WL 813506, at *2 (N.D. Cal. Mar. 2, 2017)
 11 (citing *Nash v. Janssen Rsch. & Dev. LLC*, 2:15-cv-03868-AB-E (C.D. Cal. June 4, 2015), Dkt. No. 19
 12 at 3–4 (“Plaintiffs may benefit from the stay as they will be spared from the costs of pretrial motion
 13 practice and discovery in this Court that may be unnecessary in the MDL court if the transfer is
 14 granted.”)).

15 *Second*, absent a time enlargement, the Defendants will face substantial harm and
 16 prejudice by being forced to litigate duplicative matters in numerous venues, which could subject them
 17 to conflicting rulings across multiple jurisdictions. Such serial litigation would defeat the efficiency that
 18 MDL proceedings were designed to achieve, particularly where, as here, the Complaint is virtually
 19 identical to *Whalen 1*, where the parties have already stipulated, and the Court has agreed, to a stay. *See*
 20 Manual Complex Lit. § 22.35 (4th Ed. 2004) (“A stay pending the Panel’s decision can increase
 21 efficiency and consistency, particularly when the transferor court believes that a transfer order is likely
 22 and when the pending motions raise issues likely to be raised in other cases.”); *Weaver v. Pfizer, Inc.*,
 23 2014 WL 2002212, at *4 (noting the harm to the defendant if required to “relitigate any decisions. . . if
 24 the case is transferred to the MDL court”). Indeed, the parties in three of the four other Related Actions
 25 have agreed to stays, and defendants in the remaining Related Action (*Tejon*) intend to file a motion for
 26 a stay similar to this one.

27 *Third*, an enlargement of time will conserve judicial resources. “The most important
 28 [Rivers] factor is judicial economy.” *Johnson*, 2018 WL 3159689, at *2. “[I]t is often appropriate to

1 stay preliminary pretrial proceedings while a motion to transfer and consolidate is pending with the
 2 MDL Panel because of the judicial resources that are conserved.” *Rivers*, 980 F. Supp. at 1362. The
 3 JPML may decide to consolidate this case with the Related Actions, either in this Court or in another
 4 district court. If the cases are transferred to another district, this Court will not need to rule on any
 5 motion(s) to dismiss and, if the cases are transferred to this Court, Plaintiff may file a single amended
 6 complaint. Courts routinely conserve judicial resources by not requiring defendants to respond to a
 7 complaint pending a ruling by the JPML. *See, e.g., Johnson*, 2018 WL 3159689, at *1, *3 (“[A] brief
 8 stay will serve judicial economy.”); *Ernyes-Kofler*, 2017 WL 813506, at *2 (“If this case goes on, and
 9 the JPML later finalizes its decision to transfer it, this Court will have needlessly expended its energies
 10 familiarizing itself with the intricacies of a case that would be heard by another judge.”) (internal
 11 quotation omitted); *Fuller*, 2009 WL 2390358, at *2 (“There is simply no reason for this Court to
 12 expend its time and energy on these cases until the pending [JPML motion] is resolved, as transfer of
 13 this matter to another court would render redundant the efforts of this Court.”). Plaintiff’s
 14 “unwillingness to stipulate to a brief stay . . . pending the JPML decision . . . has already wasted scarce
 15 judicial resources.” *A.H.M.*, 2023 WL 6199179, at *2. The Court should not allow Plaintiff to waste
 16 even more.

17 **CONCLUSION**

18 For the foregoing reasons, Defendants respectfully request that this Court grant this
 19 Motion and enter an order enlarging Defendants’ time to answer, move, or otherwise respond to the
 20 Complaint and, similarly, enlarge the time related to the Initial Case Management Conference and other
 21 deadlines, until the JPML has ruled on the JPML Motion. Defendants further request that (a) if the
 22 JPML grants the JPML Motion and the matter is consolidated before this Court, the Defendants will
 23 have 60 days after the filing of a consolidated complaint to answer or otherwise respond to the
 24 consolidated complaint; and (b) if the JPML denies the JPML Motion, the Defendants will have 45 days
 25 from the date of such order to respond to the Complaint in this action.

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1 DATED: August 27, 2025

2 Respectfully submitted,

3 /s/ Brendan P. Cullen

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1 **Attestation Pursuant to Local Rule 5-1(i)(3)**
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3 Pursuant to Local Rule 5-1(i)(3), I attest that concurrence in the filing of this document
4 has been obtained from each of the other signatories.

5 Dated: August 27, 2025

6 /s/ Brendan P. Cullen

7 Brendan P. Cullen

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